

FEC Enforcement Practices and the Case against Foreign National Thomas Kramer: Did Prominent DNC Fundraisers Receive Special Treatment?

I. INTRODUCTION

Another foreign contributor who came to the Committee's attention was Thomas Kramer. Mr. Kramer, a German citizen with considerable real estate holdings in the South Beach area of Miami, illegally contributed over \$322,600 to national, state, and local candidates of both the Democratic and Republican parties.¹ *The Tampa Tribune* noted the donations and published an article in September 1994 questioning whether or not Kramer was eligible to make political contributions.² The following week, Kramer "voluntarily" disclosed his illegal activity, claiming ignorance as to the illegality of his campaign contributions.

Upon learning that Kramer's contributions might not be legal, almost all of the contributed money was returned to Kramer by the parties involved.³ The FEC ultimately fined Kramer, his secretary (Terri Bradley), the law firm of Greenberg Traurig Hoffman Lipoff Rosen & Quentel, P.A. ("Greenberg Traurig"), and the Republican Party of Florida ("RPF") for giving or receiving Kramer's contributions. The penalties associated with the Kramer contributions totaled \$503,000. Mr. Kramer was individually fined \$323,000 — the largest penalty of its kind ever assessed by the FEC.⁴

The two individuals most closely identified with soliciting Kramer's contributions were Marvin Rosen, the former Finance Chairman of the Democratic National Committee ("DNC"), and Howard Glicken, a former Vice Finance Chairman of the DNC and close political associate of Vice President Gore. Mr. Glicken was charged on July 9, 1998, by the Department of Justice's Campaign Financing Task Force and pled guilty to two misdemeanor violations stemming from his role in the Kramer solicitations.⁵ The FEC fined Greenberg Traurig — the law firm hired by Kramer to handle immigration matters and which counts Marvin Rosen as a partner — \$77,000 for soliciting illegal contributions from Kramer with knowledge of his foreign national status. When asked who at the firm besides Rosen solicited contributions from Kramer, the FEC reported that:

¹ The Committee's investigation focused only on the state and national contributions.

² Lavelle, Louis, "Developer's donations questioned," TAMPA TRIB., Sept. 28, 1994, at Florida/Metro 1.

³ The Republican Party of Florida ("RPF") did not return \$95,000 of the \$205,000 it received. The RPF successfully argued that the money had been placed in a redistricting account that it was legally permitted both to receive and spend money contributed by foreign nationals. The FEC agreed with the RPF's position. Conciliation Agreement, In the Matter of Republican Party of Florida (federal/non-federal accounts) and James H. Stelling, as treasurer, MUR 4398, Feb. 20, 1997, at 1.3 (Ex. 1).

⁴ Jackson, Robert, "German Given Record Fine in Campaign Donation Case," L.A. TIMES, July 19, 1997, at A16.

⁵ Bussey, Jane, "Political money probe nabs Miamian," MIAMI HERALD, July 10, 1998, at 9A.

The only Greenberg-Traurig individual specifically identified as a solicitor of Mr. Kramer's contributions in the file of this matter is Marvin Rosen.⁶

During the course of the Committee's investigation, the explanations given by FEC staff members only served to raise further skepticism as to the conviction with which the FEC pursued the Rosen and Glicken investigations. Indeed, the FEC has never adequately explained why it failed to bring a case against Rosen individually, or why it initially failed to pursue a case against Glicken. Notwithstanding the fact that neither Rosen nor Glicken was fined by the FEC — despite evidence demonstrating that these two individuals were the only solicitors who had reason to know that Kramer was ineligible to make contributions — FEC General Counsel Noble stated on March 31, 1998, that no one at the FEC ever even called Rosen or Glicken about the contributions.⁷ It should be further noted that Kramer was not contacted by the FEC until a year and a half after first disclosing his illegal contributions to the commission. Yet, in announcing that it would not conduct enforcement proceedings against Glicken, the FEC made the following statement in December 1997:

[B]ecause of Mr. Glicken's high profile as a prominent Democratic fundraiser, including his potential fundraising involvement in support of Vice President Gore's expected presidential campaign, it is unclear that this individual would agree to settle this matter short of litigation.⁸

FEC counsels and Commissioners, in both the FEC conciliation agreement and in subsequent testimony before the Committee, argued that this statement referred to a statute of limitations that was about to expire at the time Glicken's name was discovered in conjunction with his solicitation of Kramer.⁹ They argued that discovering Glicken's name at such a late point made bringing a case against Glicken difficult for the Commission and would complicate the settlement process for the other involved parties.¹⁰ This position, however, cannot explain away the fact that Kramer submitted an affidavit in December 1994 — approximately four years before the statute of limitations would expire — which put the FEC on notice that a key fundraiser for the Democratic Party may have knowingly solicited his illegal contributions.¹¹ Furthermore, the FEC's statement linking Glicken to Vice President Gore as an apparent reason for not pursuing the matter appears

⁶ *Federal Election Commission Enforcement Actions: Foreign Campaign Contributions And Other FECA Violations Before the House Comm. on Government Reform And Oversight*, 105th Cong., 2nd Sess. 114 (1998).

⁷ *Id.* at 80 (statement of FEC General Counsel) (emphasis added).

⁸ General Counsel's Report, In the Matter of Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel, P.A., et al, MUR 4638, Dec. 19, 1997, at 2.3-2.4 (Ex. 2).

⁹ *Federal Election Commission Enforcement Actions*, *supra* note 6 at 80-81 (statement of FEC General Counsel). General Counsel Noble stated that the FEC "did not find Mr. Glicken's name until July 1997, and that particular contribution, where there was a suggestion that it was a contribution in the name of another, or solicited as a contribution in the name of another, the statute of limitations would have run at the end of April of this year." *Id.* at 81.

¹⁰ *Id.* at 82.

¹¹ Affidavit of Thomas Kramer, Dec. 27, 1994 (Ex. 3); *see also* Letter from Roger M. Witten to Joan McEnery and Mary L. Taksar, December 27, 1994 (Ex. 21)

to be a particularly ill-considered message that the FEC does not prosecute cases when met with resolve and political connections. Notwithstanding the fact that many of the recipients of Kramer's donations had no knowledge of his foreign national status, the Thomas Kramer matter demands vigorous attention for two reasons:

- (1) Kramer's first and third federal contributions were conduit contributions made at the request of, and with the knowledge of, very prominent Democratic fundraisers; and
- (2) the FEC appears to have missed the mark entirely — prominent national fundraisers should be penalized heavily if they encourage others to break the law.

An analysis of FEC practices and procedures relevant to the Thomas Kramer matter follows this chapter as Appendix 1.

II. THOMAS KRAMER: HIGH PROFILE GERMAN DEVELOPER

A. Background

Thomas Bernhard Kramer was born in Bad Soden, Germany on April 27, 1957. He worked at Shearson Lehman Hutton Inc. in Frankfurt from 1983 until 1988, leaving Germany the following year after his plan to buy up East German pre-reunification real estate proved unsuccessful. He settled in Miami during the early 1990s and remains in the United States as a resident on a tourist visa.¹²

Mr. Kramer's lack of U.S. citizenship would certainly not surprise anyone remotely familiar with the Miami South Beach scene. Leading a high profile life colored with self-promotion, Kramer was often described in newspapers and national magazines by such monikers as "the impulsive German whiz kid"¹³ or "the German multimillionaire."¹⁴ During the early 1990s, he amassed more than \$40 million in property on South Beach and Star Island — often paying cash for his acquisitions. *The Miami Herald* once ran a full color picture of Kramer on the cover of its *Tropic* insert describing Kramer as "The German Tycoon Who Wants To Rebuild South Beach in His Own Image."¹⁵

FEC General Counsel Lawrence Noble stated in testimony before this Committee that, to his understanding, Kramer was definitely known to be a German investor in the South Beach, Miami area. Mr. Noble further pointed out that Kramer's immigration

¹² Evans, Christine, "Kramer vs. Kramer," *MIAMI HERALD*, May 9, 1993, at 9. Notwithstanding requests to the Department of Justice for immigration information on Thomas Kramer, this Committee has not received as much cooperation as expected.

¹³ Evans, *supra* note 12.

¹⁴ Evans, Christine, "The Mysterious Stranger," *TROPIC*, Jan. 3, 1993, at 11.

¹⁵ *TROPIC* Magazine Cover, Jan. 3, 1993 (Ex. 4).

status “was a question of whether or not it was obvious or not he was a foreign national and whether or not he was what’s called a green card holder in this country.”¹⁶ Mr. Noble’s statement shows that Kramer’s immigration status was thus something certainly in need of scrutiny. Notwithstanding public information that might have led potential solicitors to question Kramer’s nationality, the evidence obtained by the Committee demonstrates that Marvin Rosen and Howard Glicker clearly had knowledge that Kramer was ineligible to make political contributions. The sections of this chapter discussing the roles played by Rosen and Glicker in the Kramer solicitations will explore such evidence in detail.

The DNC and Kramer’s Questionable Immigration Status

The Committee uncovered additional evidence demonstrating that the DNC was on, at a minimum, constructive notice of Kramer’s questionable immigration status. Notwithstanding the aforementioned newspaper articles describing Kramer’s foreign national status, documents show that the DNC conducted background NEXIS research on the Miami-based developer which turned up a *Forbes* magazine article describing Kramer as a “German investor.”¹⁷ The DNC’s own “Event Form” for Chairman David Wilhelm for a June 10, 1993, Vice Presidential dinner described Kramer as being “[b]orn in Germany.”¹⁸ The form did not mention Kramer’s exact immigration status, leaving the legality of his ability to make political contributions a matter of uncertainty.

Despite his questionable status, Kramer earned a DNC Business Leadership Forum position due to the fundraising efforts he undertook for an April 29, 1993, dinner for Vice President Gore.¹⁹ A DNC memo dated May 7, 1993, to party finance directors demonstrated why Kramer was considered an attractive target for campaign funds:

Tom Kramer – Gave \$25,000 to the event. Is the developer who will build much of South Miami Beach and is worth tens of millions. Make him a Trustee and stroke him and he’ll do more than \$50,000 for the program.²⁰

Other employees at the DNC also targeted Kramer directly. Eric Sildon, Director of Membership Services for the DNC, included Kramer on a list of potential invitees to a Florida event for President Clinton “because things like this might get him jazzed-up to start writing those big checks.”²¹ Mr. Kramer’s name appeared on call sheets for both Laura Hartigan, Director of the DNC’s Trustee Program, and for David Wilhelm, the

¹⁶ *Federal Election Commission Enforcement Actions*, *supra* note 6 at 35 (statement of FEC General Counsel).

¹⁷ DNC Major Donor Screening Form for Olympus Holdings, Inc. and corresponding background information (Ex. 5).

¹⁸ Event Form for Chairman Wilhelm, June 10, 1993 (Ex. 6).

¹⁹ Charles Intriago, another South Florida Democratic Fundraiser and DNC Trustee was also in attendance. See “Charles Intriago and Illegal Political Contributions from Venezuela ” section of this report).

²⁰ Florida Donors Memorandum, May 7, 1993, at 7.5 (Ex. 7).

²¹ Clinton in Florida Memorandum, Sept. 20, 1993 (Ex. 8).

then-DNC Chairman.²² Mr. Wilhelm also drafted a letter to Kramer and his wife on May 27, 1994, inviting them to a June 1994 DNC National Presidential Dinner.²³ National Finance Chairman Terry McAulliffe also invited Kramer to the DNC's 1994 Business Leadership Forum's Issue Conference and to the DNC's National Presidential Dinner.²⁴ As a result of such targeted solicitation, Kramer eventually attained DNC Managing Trustee status.²⁵ Along with his numerous contributions and invitations to various DNC causes and events, Kramer also began to gain access to both the Vice President and the First Lady: Mr. Kramer likely attended a private dinner with the Vice President on June 10, 1993, at the Four Seasons Hotel in Georgetown²⁶ and was also scheduled to be seated at the First Lady's table at another DNC event.²⁷

B. Contributions

Mr. Kramer made numerous contributions to national and state candidates of both the Democratic and Republican Parties between April 1993 and March 1994. He made the contributions in his own name, in the name of his companies, in his wife Catherine Burda Kramer's name, and in his secretary Terri Bradley's name. In an affidavit filed with the FEC, Kramer said:

[N]o one who solicited or accepted my candidate contributions ever asked me about my immigration status, advised me that I was illegal to contribute, or rejected my political contributions because of my citizenship.²⁸

The Committee's investigation uncovered no evidence contradicting this claim for the majority of recipients. Two facts, however, stand out. First, Marvin Rosen's law firm — Greenberg Traurig — did immigration work for Kramer, thereby putting Rosen and his colleagues on clear notice that Kramer was not eligible to make political contributions. Second, there appeared to be clear and convincing evidence that Kramer was counseled on how to break the law by Howard Glick. Because Glick coached Kramer on making conduit contributions through Kramer's secretary, it is appropriate to assume that he understood that Kramer himself would not make the contributions.

On August 5, 1996, Kramer entered into a conciliation agreement with the FEC stating that "[r]espondent Thomas Kramer made a total of \$322,600 in contributions either directly, through his secretary, through unknown intermediaries, or as an officer

²² Laura Hartigan Calls (Ex. 9); *see also* Call Sheet for Chairman David Wilhelm, Nov. 16, 1993 (Ex. 10).

²³ Chairman David Wilhelm Letter to Mr. and Mrs. Tom Kramer, dated May 27, 1994 (Ex. 11).

²⁴ Invitation to Thomas Kramer to the 1994 Business Leadership Forum's Issue Conference (Ex. 12).

²⁵ Invoice Dates DNC Managing Trustees, at 13.7 (Ex. 13).

²⁶ NMR Event Brief, June 10, 1993 (Ex. 14). Kramer was slated to sit at Chairman Wilhelm's table. Table Diagram (Ex. 15).

²⁷ The First Lady's Table (Ex. 16). Mark Jimenez, who is also currently under investigation for campaign fundraising abuses, was also listed on the diagram. *Id.*

²⁸ Affidavit, *supra* note 11.

through his various corporations which were used in connection with elections for local, State and Federal office, in violation of 2 U.S.C. §§441e and 441f.”²⁹ The two conduit contributions made through his secretary Terri Bradley, the first and third contributions made by Kramer,³⁰ are detailed in the chart below:

Contributions Made in the Name of Terri Bradley³¹				
Date	Recipient	Amount	Returned?	Solicitor
3/20/93	Mitchell for Senate	\$1,000	Yes	Marvin Rosen ³²
4/28/93	DSCC	\$20,000	Yes	Howard Glicker ³³

Kramer focused on these two contributions in his December 1994 affidavit. The contributions are distinct from his other illegal contributions in that they involve violations of two federal election law provisions — 2 U.S.C. §441e, making illegal contributions by a foreign national and §441f, making illegal contributions in the name of another. This chapter will show that both Rosen and Glicker sought contributions from Kramer knowing he was a foreign national and that Glicker encouraged him to make contributions through a conduit. Anyone soliciting a contribution from Kramer knowing he was a foreign national or encouraging him to make the contribution through a conduit would thus be conspiring to violate federal election law provisions.

C. The Case Against Thomas Kramer

On September 28, 1994, *The Tampa Tribune* published an article entitled “Developer’s donations questioned,” bringing into question the more than \$500,000 contributed by the “flamboyant German developer.”³⁴ Shortly thereafter, Kramer brought the matter to the attention of the FEC. The somewhat unorthodox method by which the case arrived at the FEC was noted by FEC Commissioner McGarry during one of the Pre-Matter Under Review, or PRE-MUR, hearings:

I’m convinced also in my own mind that if it weren’t for the *Tampa Tribune* we wouldn’t be seeing this case. It is sua sponte yes, but I always am less sympathetic when someone is accelerated, eh, to jump in and do something and bring it to our attention when it’s publicized in a major newspaper.³⁵

On October 4, 1994, Kramer’s counsel wrote to FEC General Counsel Lawrence Noble expressing his client’s desire to voluntarily disclose his violations of the Federal

²⁹ Conciliation Agreement, *In the Matter of Thomas Kramer et al.* MUR 4398, Aug. 5, 1996 (Ex. 17).

³⁰ See Affidavit, *supra* note 11 at 3.3.

³¹ Bradley is no longer employed by the Portofino Group.

³² Sandler Letter to Rodriguez, Sept. 3, 1997, at 18.3, 18.11 (Ex. 18).

³³ DSCC Finance Division Check Tracking Memorandum (Ex. 19).

³⁴ Lavelle, *supra* note 2.

³⁵ FEC Pre-MUR 307/MUR 4398 proceedings, June 25, 1996.

Election Campaign Act (“FECA”).³⁶ The case was docketed as Pre-MUR 307 (which later became MUR 4398 as the investigation continued). A longer letter and an affidavit from Kramer disclosing the contributions he made to the DNC and to the Republican Party of Florida followed in December.³⁷ In the affidavit, Kramer cited the September 1994 *Tampa Tribune* article, which spotlighted his illegal contributions, as providing the impetus for his decision to come forward. Kramer claimed that he was “not knowledgeable about federal campaign finance laws” at the time he made his political contributions.³⁸ Both the letter and the affidavit state that Kramer was never advised that a foreign national could not make candidate contributions.

The fact that the FEC did not discover the identities of the solicitors of Kramer’s illegal contributions until over two and a half years after receiving Kramer’s admissions, together with the FEC’s General Counsel citing a then-expiring statute of limitations as a reason not to pursue a case against the solicitors, brings into question the FEC’s management of this case. Indeed, FEC Commissioner Joan Aikens acknowledged a problem during one of the MUR hearings:

My first objection to this was to the length of time this was sitting around for a sua sponte complaint.³⁹

Commissioner Aikens further noted:

I understand the misfortunes that befell the matter, but I do find it distressing to have a sua sponte matter involving both corporate and foreign national contributions delayed this long. It would seem that something like this should be flagged to be sure that it doesn’t fall between the cracks.⁴⁰

The FEC ultimately discussed the cases in Executive Session on four occasions,⁴¹ and handed down the following fines: Terri Bradley was fined \$21,000 in July 1996; Kramer \$323,000 in August 1996; the Republican Party of Florida \$82,000 in March 1997; and the law firm Greenberg Traurig \$77,000 in February 1998. At the time, Kramer’s fine was the largest ever assessed by the FEC for an illegal campaign contribution by an individual.⁴² The FEC decided to concentrate its case against these four entities in order to maximize the possibility of entering into conciliation agreements. For various other reasons — reasons which will be examined and explored in this chapter — the FEC decided not to pursue a case against Marvin Rosen or Howard Glick, both closely involved with the Kramer conduit contributions. (*The personal involvement of these individuals will be discussed in detail in the “Marvin Rosen, Howard Glick and Their Solicitations of Thomas Kramer” section of this chapter*).

³⁶ Letter from Roger M. Witten to General Counsel Noble, Oct. 4, 1994 (Ex. 20).

³⁷ Letter from Roger M. Witten and Margaret L. Ackerley to the Office of the General Counsel, Dec. 27, 1994 (Ex. 21); *see also* Affidavit, *supra* note 11.

³⁸ Affidavit, *supra* note 11.

³⁹ FEC Pre-MUR 307/MUR 4398, *supra* note 35.

⁴⁰ *Id.*

⁴¹ Noble Memorandum to The Commission, May 4, 1998 (Ex. 23).

⁴² Jackson, *supra* note 4.

D. The Case against the Republican Party of Florida (“RPF”)

On February 20, 1997, the RPF voluntarily entered into a Conciliation Agreement with the FEC for contributions it accepted from Kramer. The agreement noted that the Party accepted the following contributions from Kramer: (1) Separate contributions of \$100,000 and \$5,000 from the Kramer-owned Portofino Group on June 4, 1994; and (2) \$100,000 from Kramer on March 3, 1994, \$5,000 of which was deposited into the party’s federal account with the balance being transferred into a non-federal account and then transferred into a segregated redistricting account. The RPF argued, and the FEC later agreed, that it did not need to return \$95,000 of the \$205,000 it received because it had been legally placed into a redistricting account. The FEC noted in the agreement that funds used solely for non-campaign related redistricting issues are exempt from the foreign national prohibition at 2 U.S.C. §441.⁴³ The \$95,000 transferred by the party was thus, according to the FEC, legally permissible under campaign finance law. Nothing in this agreement pointed to any evidence whatsoever that anyone within or related to the RPF knowingly solicited contributions from the foreign national or had direct knowledge of Kramer’s status as a foreign national.

E. The Case against Greenberg Traurig

Because of the FEC’s inability to reach a settlement with Greenberg Traurig as part of the broader Kramer-related MUR 4398 — and so as to not adversely prejudice the successfully completed portion of MUR 4398 — the Commission severed the activity concerning Greenberg Traurig into a separate matter and launched an investigation into the law firm’s involvement in Kramer’s contributions.⁴⁴ The investigation into Greenberg Traurig’s actions was assigned the MUR number 4638.

The FEC’s case against Kramer from the outset, according to FEC Associate General Counsel Lois Lerner, targeted Greenberg Traurig:

Our focus . . . was to proceed against him [Kramer] and the law firm. Ordinarily in the past, we had not really proceeded against solicitors in these kinds of cases, but here we had very specific information regarding the law firm[.]⁴⁵

According to Lerner, “Mr. Kramer had said that it was individuals in the law firm that had solicited him and that was how we had proceeded.”⁴⁶ Kramer’s secretary, Terri Bradley informed the FEC that a named partner at Greenberg Traurig had solicited Kramer for illegal contributions. [*For a discussion of the FEC’s case against Rosen—whom the*

⁴³ In the Matter of Republican Party of Florida, *supra* note 3. The Committee believes that this aspect of federal election law should be evaluated to determine whether it is appropriate.

⁴⁴ General Counsel’s Report, In the Matter of Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel, P.A., MUR 4638, Oct. 27, 1997, at 23.2 (Ex. 23).

⁴⁵ *Federal Election Commission Enforcement Actions*, *supra* note 6 at 39 (statement of FEC Associate General Counsel).

⁴⁶ *Id.*

Committee suspects may be the “named partner” in question—see the “Marvin Rosen” portion of the following section].

The FEC has not been clear about the frequency with which it proceeds against the solicitors of illegal foreign or conduit contributions. In an exchange before this Committee, FEC Associate General Counsel Lerner suggested that it was *virtually unprecedented* for the FEC to target the solicitors:

MR. BURTON: Let me just follow up, if I might. You have gone after individuals who illegally or unethically solicited contributions that were not legal, have you not?

MS. LERNER: Foreign national contributions, I believe there’s only been one other instance where we have pursued a solicitor.

MR. BURTON: Is that right? Only one other?

MS. LERNER: I believe so.

Yet according to arguments made by FEC Staff Attorney Jose Rodriguez to the Commissioners during the FEC’s MUR hearing:

*There is a violation for someone who solicits the foreign national contributions, but not for the conduit. And having looked at some of our past practice through the MURS, I don’t believe we’ve actually held anyone in violation of the foreign national prohibition for simply being a conduit. We have held people certainly for soliciting funds on behalf of the [political] committee, but not for being a conduit.*⁴⁷

Greenberg Traurig was presumably targeted because of its particular and indisputable knowledge of Kramer’s foreign national status. Yet it was Marvin Rosen — the DNC Finance Chairman, the lawyer who held Kramer as a client, and the actual solicitor of some of Kramer’s contributions — who was in a unique and significant position. These factors make the reality that the FEC targeted Greenberg Traurig, rather than Rosen individually, even more difficult to comprehend.

Greenberg Traurig eventually expressed a desire to settle the matter, and did so based on the \$91,000 the firm admitted soliciting from Kramer.⁴⁸ The agreement noted that the firm lawyers working on the immigration matters were aware of Kramer’s foreign national status.⁴⁹ The agreement did not detail which contributions the respondent solicited or which specific lawyers at the firm were aware of his immigration status.

It should be noted, however, that the FEC may have actually given Greenberg Traurig (and Marvin Rosen) an unfair advantage when it decided to split the case into two investigations. By splitting the case, the FEC was allowed to place into the public domain

⁴⁷ FEC Pre-MUR 307/MUR 4398, *supra* note 35 (emphasis added).

⁴⁸ Certification and Conciliation Agreement, In the Matter of Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel, P.A., et al. MUR 4638, Dec. 31, 1997, at 24.3 (Ex. 24).

⁴⁹ *Id.*

all of the facts involving all of the parties except Greenberg Traurig. The law firm, with which Kramer had placed his trust to advise him of the laws of this country and which in turn advised him to break the law by making illegal contributions, was thus given a chance to further distance itself from Kramer by splitting itself off into a far less public investigation.

It should be further noted that Kramer's attorney objected to splitting off the Greenberg Traurig case. In a letter written to the FEC on June 20, 1997, Kramer's counsel wrote:

We are advised that the Commission has taken the very rare, if not unprecedented, action of severing the above-referenced MUR [MUR 4398] to create a new MUR for one respondent that has failed to reach a conciliation agreement with the Commission.

* * * *

We have been told that in severing this matter into two separate MURs, the Commission will redact from the public record of MUR 4398 certain facts that are essential to a fair understanding of the case as it concerns our client, Thomas Kramer. Specifically, we understand that references in our December 27, 1994 voluntary disclosure letter and in Mr. Kramer's accompanying affidavit to his having made contributions at the suggestion and with the advice of counsel will be omitted The planned deletions would omit a critically relevant fact — that Mr. Kramer made many of his contributions at the suggestion of a law firm that knew of his foreign national status. Because the omissions will obscure the fact that Mr. Kramer had every reason to believe he was acting within the law when he made campaign contributions, the public's understanding of the facts will be skewed in a manner grossly unfair to Mr. Kramer.⁵⁰

Kramer's counsel further pointed out that at no time did Kramer ever advocate selectively publishing the facts surrounding his contributions. On the contrary, Kramer advocated full disclosure. Whether by intention or by accident, the splitting of the case into two separate MURs may have placed Kramer — who voluntarily came forward and disclosed all his improprieties completely and accurately — at a disadvantage, while placing Greenberg Traurig in a more favorable position.

III. MARVIN ROSEN, HOWARD GLICKEN AND THEIR SOLICITATIONS OF THOMAS KRAMER

A. *Marvin Rosen's Involvement*

1. *Background*

Marvin S. Rosen is a shareholder in the Miami-based law firm Greenberg Traurig. He has a long history of political fundraising. He personally raised more than \$300,000

⁵⁰ Letter from Roger M. Witten and Margaret L. Ackerley to General Counsel Noble, June 20, 1997 (Ex. 25)

for Walter Mondale's pre-nomination campaign in 1984.⁵¹ Mr. Rosen also served as chairman of Michael Dukakis' national finance board of directors in 1988 and was one of former Florida Governor Reubin Askew's chief fundraisers.⁵² He has also raised money for a number of Democratic Senators. He was elevated by the DNC to trustee status after raising more than \$50,000 for an April 1993 dinner in Miami honoring Vice President Gore.⁵³ He served as a fundraiser for the Summit of the Americas conference in Miami and as head of the DNC Business Council.

Mr. Rosen became Finance Chairman of the DNC in September 1995. He did not, however, take a leave of absence from his private practice upon assuming the chairmanship — resulting in criticism from some of his colleagues for mixing personal and party business.⁵⁴ As Finance Chairman, Rosen oversaw a staff of 110 people — setting broad strategy for raising funds, deciding where to hold Clinton fundraisers, and soliciting money from donors. He has since sought to distance himself from the investigation of campaign finance violations, stressing his chairmanship position was voluntary and claiming that others had day-to-day management responsibilities.⁵⁵ Press accounts have reported that the DNC is paying his legal bills.⁵⁶

According to then-DNC Chairman Don Fowler, Rosen conducted his fundraising under the control of Deputy White House Chief of Staff Harold Ickes: the finance division reportedly “took their mission and charter from the White House and seemed to do what the White House wanted done.”⁵⁷ In November 1995, Rosen allegedly estimated that 20 telephone calls by Clinton and 15 calls made by Gore would raise \$1.2 million,⁵⁸ and two lists of potential donors were prepared for the President and Vice President.⁵⁹ Mr. Rosen may have also been involved with setting up coffees with the President: an unidentified fundraiser stated in a newspaper article on February 26, 1997, that Rosen said “[u]se the coffees to get the money,” thereby acting against White House guidelines.⁶⁰

2. A. Pattern of Questionable Fundraising

⁵¹ Jackson, Brooks, “Dukakis Nears a Fund-Raising Record With Big Boost From Greek-Americans,” WALL ST. J., Sept. 21, 1987, at A1.

⁵² Allen, Kenneth S., “Costly decision // Askew pays price for leaving race,” ST. PETE. TIMES, May 12, 1988, at 1B.

⁵³ Florida Donors Memorandum, *supra* note 20.

⁵⁴ Weisskopf, Michael and Susan Schmidt, “Some Clouds Over a Rainmaker; As Democratic Party Finance Role Grew, So Did Lobbying Firm,” WASH. POST, Jan. 26, 1998, at A8.

⁵⁵ *Id.*

⁵⁶ Schmidt, Susan, “Democrats Renew Attacks on House Panel After Staff Turmoil in Political Funds Probe,” WASH. POST, July 3, 1997, at A4.

⁵⁷ “Democrats' Fowler: Donors Got Access On White House Word,” INV. BUS. DAILY, Sept. 10, 1997, at A1.

⁵⁸ Van Natta Jr., Don, “Fundraising fell short, report says,” N.Y. TIMES, Sept. 29, 1997, at A8.

⁵⁹ Dahl, David, “Lawyer Implies Clinton may have made calls,” ST. PETE. TIMES, Sept. 22, 1997, at A1.

⁶⁰ Sun, Lena H., “Grand Jury Begins Hearing Testimony in DNC Fund-Raising Probe,” WASH. POST, Feb. 27, 1997, at A17.

Although he was the key DNC finance official during the 1996 campaign, Marvin Rosen has to date been largely overlooked in the campaign finance investigation. During his tenure as DNC Finance Chairman, Rosen was connected and involved with a number of questionable activities:

- Rosen's law firm was retained by Mark Jimenez and his company Future Tech International, Inc. Jimenez, Future Tech International, and his employees donated \$800,000 since 1993 to President Clinton, Democratic causes and other related groups. Jimenez says that he was introduced to the world of political fundraising through the Miami firm. Future Tech began making contributions to the DNC in 1993.⁶¹ Mr. Rosen solicited \$50,000 from Jimenez as detailed on a March 24, 1994, DNC Executive Finance Summary. Jimenez visited the White House 12 times beginning in April 1994. Twenty-two employees of Future Tech each gave a \$1,000 contribution to Clinton-Gore '96 at a Bal Harbour fundraiser in September 1995. Many or all of these appear to be conduit contributions.⁶² Jimenez was Florida's largest DNC contributor in 1996.⁶³

On September 30, 1998, Jimenez was indicted by the Justice Department Campaign Financing Task Force. The 17 count indictment was for, "organizing, making and concealing illegal conduit contributions to a number of Democratic campaigns, including the 1996 Clinton/Gore primary committee."⁶⁴

- Rosen was personally directed by President Clinton to hire controversial fundraiser John Huang after the DNC had ignored the suggestion of Joe Giroir to hire Huang. Giroir was a friend of both the President's and of the Riady family. Ickes called Rosen twice in the autumn of 1995 before Huang was finally hired.⁶⁵ Former DNC Finance Director Richard Sullivan, before the Senate Governmental Affairs Committee, testified that: "My sense of it at the time was that Harold had called Marvin on — twice about it over the period of a couple of weeks, and that is when Marvin acted on it."⁶⁶ Rosen was prompted to hire Huang after President Clinton approached him on November 8, 1995 at an event held at the Historic Car Barn: Rosen, in a deposition before the Senate Committee on Governmental Affairs, stated that "I believe as part of the conversation, [the President said] something along the lines that he came highly recommended or something, but I did believe that it was an approving comment at the

⁶¹ Abramson, Jill, Jonathan Friedland, and Marcus W. Brauchli, "Latin Connection: DNC Donor with Ties to Paraguay Presses Its Case in White House," WALL ST. J., Feb. 20, 1997, at A1. Jimenez was born in the Philippines and is a legal resident of the United States. He has links to the Paraguay government. Squitieri, Tom, "White House link to Paraguay probed," USA TODAY, Feb. 24, 1997, at 6A.

⁶² March, William, "Feds examine campaign largess," TAMPA TRIB., Dec. 3, 1997, at 1.

⁶³ *Id.*

⁶⁴ Press Release, Department of Justice, September 30, 1998.

⁶⁵ Van Natta Jr., Don, "President Linked to Urgent Enlisting of Top Fundraiser," N.Y. TIMES, July 7, 1997, at A1.

⁶⁶ *Investigation on Illegal or Improper Activities in Connection with the 1996 Federal Election Campaign Part I Before the Senate Comm. on Governmental Affairs, S. Hrg. 105-300* 92 (1997) (statement of Richard Sullivan).

time.”⁶⁷ Rosen and Fowler soon thereafter gave Huang the title of Vice Finance Chairman, the number two or three position at the DNC (according to Sullivan).⁶⁸

- Rosen reportedly approved of the inclusion of Wang Jun, head of a Chinese arms-trading company under investigation for alleged involvement in weapons smuggling, at a February 6, 1996, coffee because now-indicted fundraiser Charlie Trie and Ernie Green, a friend of the President’s and a Managing Trustee of the DNC, were helping Huang raise money for a then-upcoming fundraiser.⁶⁹ Rosen also gave John Huang the go ahead for the July 30, 1996, dinner at the Jefferson Hotel which raised \$488,000 for the President.⁷⁰
- Rosen’s firm was also hired by Roger Tamraz, an Egyptian-American oil financier wanted in Lebanon on embezzlement charges. Tamraz hired Greenberg Traurig and donated money to the Democratic Party to promote himself and his proposal to build a \$2.5 billion oil pipeline from the Caspian Sea region of Central Asia to Western markets. Tamraz contributed about \$300,000 to Democrats in 1995 and 1996. A federal grand jury is seeking to determine if anyone tried to bribe or pressure any Clinton administration officials into supporting Tamraz and his plan.⁷¹

Tamraz claimed that the firm was hired for legal advice on regaining some of his properties seized in Lebanon. The connection evidently came through Tamraz’ hiring of Greenberg Traurig lawyer Victoria Kennedy, wife of Senator Ted Kennedy.⁷² Rosen and Sullivan met with Tamraz at the Four Seasons Hotel in Washington, D.C. on October 6, 1995. Tamraz complained that he had been frozen out from the White House. Rosen promised to look into it. Tamraz was later admitted to four White House functions.⁷³

Tamraz testified before the Senate Committee on Governmental Affairs during its campaign finance inquiry. When asked by Senator Joseph Lieberman whether he thought he got his “money’s worth” for the \$300,000 he gave, Tamraz replied, “I think next time I’ll give \$600,000.”⁷⁴

⁶⁷ *Id.* at 1663 (statement of Marvin Rosen).

⁶⁸ *Id.* at 99 (statement of Richard Sullivan).

⁶⁹ Miller, Alan C. and Glenn F. Bunting, *Ex-DNC Official May Pose Biggest Party Threat*, July 9, 1997, at 1.

⁷⁰ See generally Squitieri, Tom, “Democrats knew Huang might be trouble,” USA TODAY, Feb. 19, 1997, at 09A.

⁷¹ Ottaway, David B. and Dan Morgan, “Senate panel to study saga of access and oil,” *Austin American-Statesman*, Sept. 9, 1997, A8.

⁷² Walsh, Edward, “Tamraz Defends Political Donations; Access to Top Officials Was ‘Only Reason’ Pipeline Promoter Testifies,” WASH. POST, Sept. 19, 1997, at A1.

⁷³ Vistica, Gregory and Michael Issikof, “A Shadowy Scandal,” NEWSWEEK, Mar. 31, 1997, at 34.

⁷⁴ *Investigation on Illegal or Improper Activities in Connection with the 1996 Federal Election Campaign Part VII Before the Senate Comm. on Governmental Affairs*, S. Hrg. 105-300 184 (1997) (statement of Roger Tamraz).

- The DNC assumed \$25,000 in bills incurred at Chicago's Four Seasons Hotel during the 1996 Democratic Convention. Greg Cortes, an attorney from Puerto Rico, had picked up the tab for Rosen's \$3000-a-night suite, as well as part of the tab for treasurer Scott Pastrick, after the hotel refused to provide free rooms. Much of the bill was paid through wire transfers. The DNC was concerned that the wire transfer may have come from Cortes's South American business associates and thus decided to pick up the tab. The DNC also failed to report Cortes' payment as an in-kind contribution to the party in its FEC filings.⁷⁵

3. Marvin Rosen and the Kramer Solicitations

Terri Bradley told the FEC she was able to identify the Greenberg Traurig partner who solicited contributions from Kramer, and was aware of both telephone and fax solicitations evidencing such solicitation.⁷⁶ This information was conveyed during a telephone conversation between her lawyer and Jose Rodriguez, the staff attorney assigned to the case, in September 1997. Rodriguez was asked about this information during a Committee hearing:

A: We had some discussion about the language that we could include. Of course, what they wanted was some language showing that the client relied on, uhm, legal advice from the law firm. If I understand correctly, we told them that we would provide some of this language. We would not identify the law firm of course. Nor would we include language showing that the law firm solicited a number of the contributions. But we would allow some language showing the client's reliance on legal advice.⁷⁷

Q: And I guess my question is up until 1997, what was done to try to deal with this very clear, specific request and, obviously a violation of the law because Ms. Bradley did, in fact, make a \$20,000 conduit payment, didn't she?

A: Yes she did.

Q: OK. And what steps did you take to try to find out who this person was?

A: The steps that were taken were taken during the conciliation process, and I can't go into detail because it's confidential information.

Q: I understand.

A: We sought to gain further information on this transaction during the negotiations for conciliation. We did not—the conciliation negotiations went quickly incidentally,

⁷⁵ Babcock, Charles, "DNC Assumes Hotel Bills First Paid by Business Consultant," WASH. POST, Jan. 8, 1997, at A14.

⁷⁶ Office of the General Counsel Memorandum of Telephone Call or Visit, Sept. 11, 1997 (Ex. 26).

⁷⁷ FEC Pre-MUR 307/MUR 4398, *supra* note 35.

settlement was reached quickly. Later on in the investigation when we could not find settlement or reach settlement with the law firm, we inquired further, and that brings us to the conversation you saw earlier on the Telecon and other information that you have in your possession.⁷⁸

Associate General Counsel Lerner testified before this Committee during the same hearing that “there’s also information that there were other people in the law firm who were also involved in the solicitations, not just Mr. Rosen.”⁷⁹ Yet in a statement provided to the Committee after its March 31, 1998, hearing, the FEC reported that:

The only Greenberg-Taurig individual specifically identified as a solicitor of Mr. Kramer’s contributions in the file of this matter is Marvin Rosen.⁸⁰

Based on evidence provided to the Committee by the FEC itself, it thus appears that Rosen was the “named partner” to whom Bradley was referring. Unfortunately, the Committee was not able to learn the identity of the “named partner” directly from Bradley because she asserted her Fifth Amendment rights before this Committee.

The Committee also discovered that Rosen solicited \$60,000 from Kramer at an event in March 1994 and another \$65,000 from Kramer through his companies. Both of the contributions violated 2 U.S.C. §441e.⁸¹

B. Howard Glicken’s Involvement

1. Background

Howard M. Glicken was born on November 16, 1943, in Miami. He serves as the Chairman of the Board of the Americas Group and is the former chairman of the Commonwealth Group,⁸² the College Democrats of America, and Jillian’s Entertainment Corporation.⁸³ He was fired from a Miami bank in 1983 after accepting a commission that

⁷⁸ *Federal Election Commission Enforcement Actions*, *supra* note 6, at 60.

⁷⁹ *Id.* at 40 (statement of FEC Associate General Counsel).

⁸⁰ *Id.* at 114.

⁸¹ DNC Check Tracking Form for 35 Star Island Inc. (Ex. 27); Executive Summary for Mr. Tom Kramer (Ex. 28); DNC Finance System report on Tom Kramer (Ex. 29); DNC Response to Committee Interrogatories, Mar. 30, 1998 at 30.3 (Ex. 30); *see also* Karpel, Craig, “Al Gore’s Ties to Dirty Money in Miami,” Apr. 4, 1994, at 1.

⁸² The business addresses are: Alhambra Plaza, Suite 620, Coral Gables, Florida 33134; 1 Massachusetts Ave. NW, Suite 850, Washington, D.C. 20001; One Boston Street, 30th Floor, Boston, Massachusetts 02108.

⁸³ Jillian’s owns a chain of billiard parlor/restaurants in Miami, Seattle, Cleveland, and Boston. Jillian’s was formerly known as Carom. Carom was one of two Miami companies indicted by an Atlanta based grand jury on charges of money laundering as part of Operation Polar Cap. Polar Cap was a nationwide attack on the financial end of the Medellin cocaine cartel. Sedore, David, “Carom and Analysts Say Indictment Misses the Mark,” S. FLA. BUS. J., Dec. 2, 1991, at 1. Falk and Duvan Arboleda, former chairman of the Orexana Corp. (another company indicted by the grand jury) were named in the indictment. *Id.* Arboleda was murdered in Colombia in Spring 1998.

his boss considered to be a kickback.⁸⁴ Mr. Glicken also once headed MetalBanc Corp.,⁸⁵ a precious-metals trading company indicted in a case involving laundering drug money.⁸⁶ The charges were dropped, but in a settlement agreement Glicken created a subsidiary that agreed to pay the government \$375,000. Mr. Glicken was never charged but testified under a grant of limited immunity at the trial of his former partner, Harry Aaron Falk.⁸⁷ Mr. Falk is currently serving a 27-year sentence.⁸⁸ Committee investigators learned that another partner indicted in the MetalBanc investigation, Duvan Arboleda, was murdered in Colombia in early 1998.⁸⁹

2. Prominent Fundraiser with Strong Ties to Vice President Gore

Mr. Glicken has known Vice President Gore since 1987, serving as the Florida Finance Chairman during then Senator Gore's 1988 Presidential campaign. The license plates on Glicken's two Jaguars were, at one point, "Gore 1" and "Gore 2."⁹⁰ He is known to show photos of a \$6,000 pool table that he arranged to have donated to Vice President Gore's home.⁹¹ In addition, his son, Monte Glicken, once worked for Mr. Gore during his tenure as Vice President.⁹² According to a newspaper article, Glicken "frequently advises the Vice President on ways to attract young people into the party."⁹³ A request for a West Wing Tour made by Eric Sildon at the DNC noted such strong ties to Vice President Gore: "Howard is one of our strongest supporters and has been a close friend of the Vice President's for many, many years."⁹⁴

Over the years, Glicken has developed an expertise in Latin American business and reportedly counsels the Vice President on Latin American affairs.⁹⁵ He testified before a

⁸⁴ Kuntz, Phil and Jill Abramson, "Glicken Raises Millions, Visits the White House Often, Arranges Introductions," WALL ST. J., Apr. 29, 1997, at A1.

⁸⁵ MetalBanc bought Jillian's by paying an undisclosed sum for a 51% interest in the chain of pool halls. Danner, Patrick, "Banc Shot: MetalBank Prepares to Take on Billiards Industry," S. FLA. BUS. J., Mar. 26, 1990, at 1. MetalBanc started Metal Resources Corp. in 1987 as a mean to capitalize on opportunities in Brazil and other markets. "Public Offering Set by Dealer of Precious Metals," S. FLA. BUS. J., July 6, 1987, at 1.

⁸⁶ Willon, Phil, "Fundraiser for Gore Reaps Dividends," TAMPA TRIB., Feb. 11, 1998, at 6.

⁸⁷ Kuntz, Phil and Jill Abramson, "Access Granted: A Fund-Raiser for Gore Retools His Career With an Aura of Clout," WALL ST. J., Apr. 29, 1997, at A1.

⁸⁸ *Id.*

⁸⁹ Phone Interview of Cynthia Arboleda, Ex-Wife of Duvan Arboleda, in Washington, D.C. (June 2, 1998). Mrs. Arboleda attended the funeral of her ex-husband with her two children. According to Mrs. Arboleda, Duvan Arboleda was murdered in Envigado, Colombia on May 9, 1998. His cause of death was attributed to multiple gunshot wounds. *Id.*

⁹⁰ Lytle, Tamara, "Friend of Gore avoids fine for illegal donations," ORL. SENTINEL, Feb. 12, 1998, at A8.

⁹¹ *Id.*

⁹² *Id.*

⁹³ Stout, Hilary "Gore Lays Strong Groundwork for the Future," WALL ST. J. EUR., Jan. 9, 1996, at 2.

⁹⁴ West Wing Tour Memorandum, Oct. 22, 1993 (Ex. 31).

⁹⁵ Stout, Hilary, "Gore Lays Strong Groundwork for the Future," WALL ST. J. EUR., Jan. 9, 1996, at 2. Glicken also serves/served on the board of the Make-A-Wish Foundation of South Florida. Bernard, Peter, "Legal Aid Builds Its Staff With Promotions, Hiring," SUN-SENTINEL (Ft. Lauderdale Fla.), Feb. 1, 1995, at 7.

July 1994 joint House International Relations Committee hearing on trade and the Western Hemisphere.⁹⁶ Mr. Glicken was also hosted in Argentina by Ambassador James Cheek and twice stayed as a guest of U.S. Ambassador to Chile Gabriel Guerra Mondragon at the official residence.⁹⁷ Mr. Glicken even accompanied the late Commerce Secretary Ron Brown on a 1994 export promotion tour through Latin America. His mere presence troubled some delegation members: Mr. Glicken's "wheeling and dealing" reportedly "evoked squeamishness among a number of officials at Commerce."⁹⁸ His inclusion thus raised the specter of political considerations possibly affecting Commerce Department decision-making.⁹⁹ Despite such controversy, Glicken prepared a memo for the Vice President upon returning from the trip. This memo appeared to raise some concerns by staff members based on handwritten notes written on the letter's face.¹⁰⁰

The Miami businessman has also been considered for administration appointments. Mr. Glicken's nomination to the President's Export Council was approved by President Clinton in a March 1994 memo.¹⁰¹ After additional FBI information on Glicken arrived, however, his candidacy was withdrawn. No reason was listed for the application's withdrawal.¹⁰² Mr. Glicken was also considered a "strong candidate" and a "good fit" for the Delegation to the Inauguration of the new Colombian President.¹⁰³ The recommendation memo noted that "Howard is on the Executive Board . . . of the Maimi (*sic*) Coalition for a Drug Free Community - a famous international drug interdiction and prevention program. He served in this organization with Janet Reno until she was appointed Attorney General."¹⁰⁴ Mr. Glicken was also considered a priority for participation in the Miami Hemispheric Conference, according to a DNC memo.¹⁰⁵

Mr. Glicken has also been an active party fundraiser. He helped raise money for the Democrats in 1992 and raised \$2 million for the party in 1996. He was elevated to trustee status (along with Rosen) after raising more than \$50,000 for the April 29, 1993, Miami dinner honoring Vice President Gore.¹⁰⁶ He served as Co-Chairman of the

⁹⁶ *The Summit of the Americas Hearing Part I: 'Prospects for or Trade within the Hemisphere Before the Subcomm. on Economic Policy, Trade and Environment and the Subcomm. on the Western Hemisphere of the House Comm. on International Relations*, 103rd Cong., 2nd Sess. (1994).

⁹⁷ Kuntz, *supra* note 87 at A8.

⁹⁸ Blustein, Paul, "A Cloud Over Commerce; Politics May Have Tainted Choices, Policy," WASH. POST, December 22, 1996, at A1.

⁹⁹ *Id.*

¹⁰⁰ Glicken Letter and Memorandum to Vice President Gore, May 10, 1994 (Ex. 32). Two notations, which appear to be written in different handwriting, read "David - We Better Discuss In Person - Thanks J.Q.", and "Jack/David: Will you pls. Handle this - politics of whether we mention this to Secy. Brown. Beth."

¹⁰¹ Candidate for Presidential Appointment Memorandum, Mar. 22, 1994 (Ex. 33).

¹⁰² Individual Information Sheet on Prospective Presidential Appointees, May 5, 1997 (Ex. 34).

¹⁰³ Delegation to Columbia (*sic*) Memorandum, July 28, 1994 (Ex. 35).

¹⁰⁴ *Id.*

¹⁰⁵ Hemispheric Conference Memorandum to Laura Hartigan, Aug. 16, 1994 (Ex. 36). Marvin Rosen was also considered a priority. *Id.* Mark Jimenez was also a suggested participant and Thomas Kramer and Neal Harrington were considered as general priority. *Id.*

¹⁰⁶ Florida Donors Memorandum, *supra* note 20 at 7.2.

December 1994 Miami-based Summit of the Americas' business contingent.¹⁰⁷ He attended coffees with both the President and the Vice President, flew on Air Force One, and visited the White House on at least 70 occasions — staying overnight in the Lincoln Bedroom at least once.¹⁰⁸ He co-chaired a March 1994 Miami dinner honoring President and Mrs. Clinton, which raised \$3.4 million. Senator and DNC Chairman Chris Dodd wrote Glicker a letter on February 27, 1995, expressing his pleasure at seeing him at a White House dinner and appreciating his “diligence and hard work as a Managing Trustee of the Democratic Party.”¹⁰⁹ President Clinton thanked Glicker personally — who was seated in the front row — during his opening remarks at the fundraiser. President Clinton also thanked Glicker in his remarks given at an April 1996 Miami fundraising event. In total, Glicker raised \$2 million for the 1996 Clinton-Gore team. Vice President Gore thanked him personally for his role in a Miami fundraiser which raised \$3.4 million.

Apart from his role as a fundraiser, Glicker appears to have combined his political activities with his business ventures. In 1996, he founded the Americas Group (which counts former Senator George Mitchell as a board member) as a vehicle to encourage business deals between the United States and Latin America.¹¹⁰ Mr. Glicker reportedly took a group of South American businessmen and politicians to meet President Clinton at a December 1996 reception at Miami's Biltmore Hotel.¹¹¹ He also met with officials from the personnel and political affairs offices, the NSC, and the Presidential and Vice Presidential staffs.¹¹² On another occasion in 1996, Glicker brought a client from Brazil to meet Ronald Klain, Vice President Gore's Chief of Staff.¹¹³

3. The Case against Howard Glicker

Mr. Kramer's secretary, Terri Bradley, made a \$20,000 contribution to the DSCC (“Democratic Senatorial Campaign Committee”) after someone unknown to Bradley — later revealed to be Glicker — approached Kramer. According to Staff Attorney Rodriguez, in testimony before this Committee and in documents produced by the FEC, Bradley overheard a conversation between Kramer and another individual who asked Kramer if there was “anyone else who could make the contribution in your place.”¹¹⁴ The solicitor promised that the “requested contribution would make Mr. Kramer a member of the ‘inner circle’ with various accompanying perks. Bradley told the FEC that she would divulge the name of the Democratic fundraiser suggesting the illegal scheme in exchange

¹⁰⁷ Boer, M. Delal, “Latin American Free Trade Stumbles,” WALL ST. J. ASIA, Nov. 2, 1994, at 6.

¹⁰⁸ Howard Glicker: Democratic Events Attended (Ex. 37)

¹⁰⁹ Dodd Letter to Glicker, Feb. 27, 1995 (Ex. 38).

¹¹⁰ The SEC objected to the merger of Americas Group, which Glicker founded in 1996, with Advanced Electronic Support Products in 1996. A group of shareholders amounting to 18% of the fund are suing Americas Group for “blatant self-interest.” See S. FLA. BUS. J., Dec. 2, 1991, at 1.

¹¹¹ Kuntz, *supra* note 87.

¹¹² Kuntz, “Democratic Fund-Raiser Glicker Visited White House Officials Scores of Times,” WALL ST. J., May 5, 1997, at A20.

¹¹³ *Id.*

¹¹⁴ Office of the General Counsel Memorandum of Telephone Call or Visit, *supra* note 76.

for immunity from prosecution.¹¹⁵ The Committee attempted to interview Bradley but, as previously noted, she asserted her Fifth Amendment rights before the Committee. The plea agreement Glicker entered into focused on Bradley's DSCC contribution — the questionable contribution referenced along with the "prominent fundraiser" language that resulted in tremendous public criticism and which played a significant part in the Committee's March 31, 1998, hearing.

Despite all of the controversy surrounding this Democratic Party insider, the FEC decided in December 1997 not to pursue a case against Glicker. This decision was made in the face of strong evidence demonstrating that Glicker had knowingly solicited an illegal contribution from a German national through a conduit straw donor. In an unusual announcement, the FEC cited "Mr. Glicker's high profile as a prominent Democratic fundraiser" and "potential fundraising involvement in support of Vice President Gore's expected presidential campaign" as reasons *not* to pursue a case against Glicker.¹¹⁶ During testimony before this Committee, the FEC General Counsel stated that his office first learned Glicker's name only a few months before the statute of limitations governing the case would expire. Yet, as previously noted, the FEC was first provided with information by Kramer himself that someone within the Democratic Party knowingly solicited the illegal contribution as early as December 1994.

¹¹⁵ Lytle, Tamara, *supra* note 90.

¹¹⁶ General Counsel's Report, *supra* note 8 at 2.3-2.4.

When asked during the Committee's March 1998 hearing why the FEC did not pursue a case against Glicker more aggressively, FEC General Counsel Lawrence Noble stated:

We did not pursue the investigation of Mr. Glicker because it was—most of the activity at issue was 1993 activity; some was 1994. We have a 5-year statute of limitations. Mr. Glicker's name came up late in the process. We have not found reason to believe against Mr. Glicker. We would have had to start from the beginning with Mr. Glicker. The statute of limitations on the main part of a solicitation runs this April.¹¹⁷

* * * *

What we were interested in with Mr. Glicker was the suggestion that he may have suggested to somebody that they make a contribution in the name of another. And that took it up to another level which is why we held on to that part of the case, thinking that we might be able to do something about it. But by the time that—that was in the DSCC information. We did not find Mr. Glicker's name until July 1997, and that particular contribution, where there was a suggestion that it was a contribution in the name of another, or solicited as a contribution in the name of another, the statute of limitations would have run at the end of April of this year.¹¹⁸

It should be noted that the FEC did not “find Mr. Glicker's name until July 1997” because, in actuality, it did not send a subpoena to the DSCC until June 10, 1997.¹¹⁹ Documents produced in response to this subpoena revealed that Glicker had solicited the Bradley contribution. No explanation given by the commission has adequately addressed why the FEC waited until two and a half years after receiving Kramer's affidavit (which highlighted the DSCC contribution)¹²⁰ to send interrogatories to the DSCC. It is thus the Committee's opinion that this explanation — given the amount of money involved, the fact that the case was brought sua sponte, and the involvement of two of the most prominent Democratic fundraisers — is simply incomprehensible.

IV. THE DEPARTMENT OF JUSTICE'S INVOLVEMENT IN THE KRAMER MATTER

On July 22, 1997, FEC Staff Attorney Jose Rodriguez wrote an e-mail requesting that “LL check with Justice to determine if they have any interest in pursuing the reported Kramer/Bradley activity criminally.”¹²¹ “LL” was a reference to FEC Associate General Counsel Lois Lerner. Ms. Lerner responded to Rodriguez' e-mail three days later, noting that she had spoken to Craig Donsanto (her contact at the Department of Justice). She stated that Donsanto thought that the Department was no longer pursuing the law firm (Greenberg Traurig), Kramer, or anyone else involved in the case.¹²² Ms. Lerner noted

¹¹⁷ Federal Election Commission Enforcement Actions, *supra* note 6 at 67-68 (statement of FEC General Counsel).

¹¹⁸ *Id.* at 81

¹¹⁹ Letter from Marc E. Elias to Rodriguez (Ex. 39).

¹²⁰ See Affidavit, *supra* note 11 at 3.3.

¹²¹ “Bradley Issue” e-mail, July 22, 1997 (Ex. 40).

¹²² Kramer e-mail, July 25, 1997 (Ex. 41).

that Donsanto would check with the United States Attorney in Florida “to be sure.” Lerner conveyed her belief that Donsanto thought that he might be able to get the department to “sign off on as to our potential witness.”¹²³ The Committee believes that Terri Bradley was this “potential witness.”

An e-mail exchange during September suggests that the FEC was at least attempting to obtain immunity for Bradley.¹²⁴ In December, however, the FEC signed off on its General Counsel Report and decided against pursuing a case against Howard Glicken:

While this Office would generally recommend a reason to believe finding against Mr. Glicken and conduct an investigation into the two DSCC contributions, because of the discovery complications and time constraints addressed above, and the fact that the transactions at issue take place during the 1993-1994 election cycle, this Office does not now recommend proceeding against this identified individual or the DSCC.

Similarly, this Office does not recommend further proceedings concerning the two DNC contributions apparently solicited by Mr. Glicken. Unlike the DSCC contributions, the larger of these two contributions would not be time barred until March of 1999 —approximately a year and four months from now. However, because of Mr. Glicken’s high profile as a prominent Democratic fundraiser, including his potential fundraising involvement in support of Vice President Gore’s expected presidential campaign, it is unclear that this individual would agree to settle this matter short of litigation. Therefore, rather than continuing this matter for an unspecified period in pursuit of one participant and because of the low prospect for timely resolution, the age of the matter and the already successful resolution concerning all principles in this case, this Office does not recommend further proceedings concerning these two DNC contributions either. Instead, this Office recommends closing of the entire file in MUR 4638.¹²⁵

Once the conclusion about Glicken and his association was reported in a major newspaper, the interest of the Department of Justice in the matter was notably increased. Such interest is obvious in an e-mail sent by Lois Lerner to Lawrence Noble on February 12, 1998:

Donsanto just called. They’ve seen the “offending language.” While he was sure there must be more to the story than this was Gore’s friend, he wanted to know why this hadn’t been referred to DOJ. He said that Task Force would be revving up an investigation unless he could provide them with something clarifying this. While I have no problem with them investigating, I thought it would be useful to provide them with whatever statement we make to the press.¹²⁶

Despite the Justice Department’s previous lack of interest in these matters, the Task Force did indeed ‘rev up’ an investigation and entered into a factual proffer and plea agreement with Glicken on July 9, 1998 — three months after this Committee held its

¹²³ *Id.*

¹²⁴ “Latest from Bradley” e-mail, Sept. 15, 1997 (Ex. 42).

¹²⁵ General Counsel’s Report, *supra* note 8 at 2.4.

¹²⁶ “GREENBERG TRAURIG (sp?)” e-mail, Feb. 12, 1998 (Ex. 43).

hearing reviewing the FEC's management of the Kramer matter — in which Glicken admitted to criminal violations of FECA by soliciting political contributions from a foreign national and by causing a political contribution to be made in the name of another.¹²⁷ Based on the agreement, Glicken potentially faces up to two years in prison and a fine of \$200,000. The Justice Department recommended a fine of \$80,000 and a minimum of 500 community service hours. Mr. Glicken also “expressed a desire to provide substantial assistance to the Government in the investigation and prosecution of others after entering his guilty plea”¹²⁸ and that he “shall cooperate fully with federal law enforcement authorities.”¹²⁹ Mr. Glicken also promised to “make himself available to all Government agencies[.]”¹³⁰ If Glicken's guilty plea agreement is accepted by the Court, and Glicken fulfills each of the terms within the agreement, then:

[T]he Government agrees that it will not further prosecute defendant for his conduct that is the subject of this plea agreement or for any other election code-related conduct known to the Government as of the date of defendant's guilty plea pursuant to this agreement, or which becomes known as a result of his cooperation pursuant to this agreement.¹³¹

Taking into account the weight of the evidence against Glicken, it appears as if the Miami businessman entered into what potentially could be an overly favorable plea agreement. Mr. Glicken's role in soliciting contributions from other Florida-based campaign contributors on behalf of the DNC and other Democratic causes has yet to be fully investigated by this Committee. However, the Committee has uncovered evidence showing that Glicken also solicited contributions from Neal Harrington and Calvin Grigsby's company, Fiscal Funding¹³² — contributions which led to the indictment of both Harrington and Grigsby, along with Carmen Lunetta, in the June 1998 Port of Miami conduit contribution scandal.¹³³ Whether or not such evidence was available to the Department of Justice at the time it entered into the plea agreement with Glicken, which would determine whether or not such action would fall within the aforementioned immunity agreement, is not known by the Committee. Glicken asserted his Fifth Amendment rights before the Committee unless granted immunity.

Because Glicken has exercised his Fifth Amendment rights in regards to the Committee's inquiry, the Committee's investigation into further misfeasance on Glicken's part has been impeded. This is not the cooperation that Glicken promised upon signing his

¹²⁷ United States of America vs. Howard Glicken Factual Proffer and Plea Agreement, (D. D.C. July 9, 1998), at 1 (Ex. 44).

¹²⁸ *Id.* at 44.10-44.11.

¹²⁹ *Id.* at 44.2-44.3.

¹³⁰ *Id.* at 44.11.

¹³¹ *Id.* at 44.4-44.5.

¹³² 1994 Florida Presidential Dinner Donors, at 45.3 (Ex. 45).

¹³³ United States of America v. Carmen Lunetta, Calvin Grigsby and Neal Harrington (So. D. FL June 3, 1998) (Ex. 46). Messrs. Glicken and Harrington, along with Charles Intriago and Mark Jimenez (both of whom have asserted their Fifth Amendment rights before our Committee) were noted guests at a December 1994 Brickell Key dinner hosted by Vice President Gore. Vice President's Guest List, Dec. 11, 1994 (Ex. 47).

plea agreement. The Committee has not been able to explore why the two additional illegal Kramer contributions solicited by Glicker — a \$25,000 contribution at Vice President Gore event and \$40,000 contribution at a President Clinton fundraiser — were passed over by both the FEC and the Department of Justice.¹³⁴ The Committee is also not privy to information the Department of Justice may have in its possession regarding any additional campaign fundraising improprieties that may have been committed by Glicker. The Committee is thus not aware of which improprieties would be covered by the immunity agreement if it were to be upheld by the United States District Court for the District of Columbia.

V. CONCLUSION

The FEC's handling of the Kramer matter brings into serious question the Commission's goals and effectiveness. Several points need to be emphasized. Notwithstanding the knowledge that a high-profile Democratic Party fundraiser was allegedly involved, the case received little attention by the FEC for nearly one and a half years after Kramer first disclosed his improprieties. In actuality, the FEC did not send an inquiry to the DSCC regarding the contribution until two and a half years after receiving Kramer's affidavit. Perhaps more important, the FEC appears to have done nothing to pursue the allegations of wrongdoing against Marvin Rosen. Although the Committee recognizes that the FEC must prioritize its many cases, few things would rival in importance the possibility that one of the titular heads of either the Democratic or Republican parties is involved in criminal conduct that cannot be explained away by "fuzzy" or "complicated" election laws.

In addition, the case ultimately resulted in over \$500,000 in fines, including the largest personal fine of its type. Such fines, however, barely totaled more than the contributions themselves (all of which were returned to the contributors).

Finally, the FEC made a public statement in which it seemingly admitted that it was not pursuing a case against Glicker *because of* his prominence and strong ties with Vice President Gore. Prominent national fundraisers should face the same consequences as any other citizen if they encourage others to break the law. The FEC, in neglecting to investigate and pursue such blatant violations of campaign fundraising laws, appears to have been derelict in its mandated statutory responsibilities.

¹³⁴ DNC Response to Committee Interrogatories, Mar. 30, 1998 at 30.3 (Ex. 30)